

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:07CR112**

**FILED
ASHEVILLE, N.C.**

JAN - 3 2008

**U.S. DISTRICT COURT
W. DIST. OF N.C.**

UNITED STATES OF AMERICA,

Vs.

**WAYLON HILLIARD BRADFORD;
TIMOTHY RYAN BURKE; KENNETH
DOUGLAS GURKIN; and BELINDA
RUTH KEETER,**

Defendants.

ORDER

THIS MATTER is before the court upon the government's Motion to Amend Indictment. Such motion does not contain a certificate of service or an indication on the face thereof that the motion is to be heard *ex parte*. Fed.R.Crim.P. 49(a). While not specifically cited, the court believes that the basis for such motion is found in Rule 7(c)(3) (citation error). While the motion seeks to amend the indictment, only bills of information may be amended under Rule 7(e). Having considered the government's Motion to Amend Indictment and reviewed the pleadings, and it appearing that the government could file a notice of correct citation, the court will deny the motion inasmuch as neither the government nor the court can amend an indictment. The government will, however, be granted leave to file and serve upon the defendants at their respective initial appearances a notice as to statutory violation

alleged in Count One.

ORDER

IT IS, THEREFORE, ORDERED that the government's Motion to Amend Indictment (#___) is **DENIED** without prejudice as to filing an appropriate notice and serving such upon defendants at their respective initial appearances or as soon thereafter as is possible.

Signed: January 3, 2008

Dennis L. Howell

Dennis L. Howell
United States Magistrate Judge

